

110TH CONGRESS
1ST SESSION

H. R. 1127

To amend the Tariff Act of 1930 to allow United States manufacturers that use products subject to countervailing or antidumping duty proceedings or use domestic like products to participate in those proceedings as interested parties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2007

Mr. KNOLLENBERG introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Tariff Act of 1930 to allow United States manufacturers that use products subject to countervailing or antidumping duty proceedings or use domestic like products to participate in those proceedings as interested parties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Manufac-
5 turing Competitiveness Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) The competitiveness of manufacturing in-
2 dustries in the United States must be a priority for
3 the United States Government.

4 (2) Antidumping and countervailing duty laws
5 of the United States are in the interest of the
6 United States, when applied in an objective and fair
7 manner, to prevent unfair pricing and subsidized
8 competition.

9 (3) Imposing antidumping and countervailing
10 duties may harm United States industrial users of
11 imported goods or domestic like products, because
12 those users rely on such goods to manufacture prod-
13 ucts in the United States.

14 (4) Current law does not permit United States
15 industrial users to participate fully in antidumping
16 or countervailing duty cases that might affect their
17 businesses substantially; nor can decisionmakers in
18 these cases consider, under United States law, the
19 effects on United States industrial users in deter-
20 mining whether to impose antidumping or counter-
21 vailing duties.

22 (5) It is a matter of fundamental fairness that
23 businesses in the United States that may be affected
24 by antidumping and countervailing duties should be

able to participate meaningfully in the process by which decisions regarding those duties are made.

(6) In order to ensure economically sound decisions and the health of United States manufacturers, the benefits of imposing antidumping and countervailing duties should be balanced against the economic harm caused by imposing those duties, and antidumping and countervailing duties should not be imposed if the harm is greater than the benefits of imposing such duties.

SEC. 3. PARTICIPATION OF INDUSTRIAL USERS IN COUNTERVAILING AND ANTIDUMPING DUTY PROCEEDINGS.

Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended as follows:

(1) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(A) by striking “and” at the end of paragraph (1);

(B) by adding “and” after “merchandise for importation,” at the end of paragraph (2); and

(C) by inserting after paragraph (2) the following:

1 “(3) the Commission determines that the im-
2 sition of a countervailing duty on such merchandise
3 equal to the amount of the net countervailable sub-
4 sidy would result in greater benefits to that United
5 States industry than harm to United States indus-
6 trial users,”.

7 (2) Section 702(b)(4)(B) (19 U.S.C.
8 1671a(b)(4)(B)) is amended by striking “or (G)”
9 and inserting “(G), or (H)”.

10 (3) Section 703 (19 U.S.C. 1671b) is amend-
11 ed—

12 (A) in subsection (a)(1), in the first sen-
13 tence, by striking “and that imports of the sub-
14 ject merchandise are not negligible” and insert-
15 ing “, that imports of the subject merchandise
16 are not negligible, and that the imposition of a
17 countervailing duty on the subject merchandise
18 equal to the amount of the net countervailable
19 subsidy would result in greater benefits to that
20 United States industry than harm to United
21 States industrial users”; and

22 (B) in subsection (b)(3), by striking “or
23 (G)” each place it appears and inserting “(G),
24 or (H)”.

1 (4) Section 704(a)(2)(B) (19 U.S.C.
2 1671c(a)(2)(B)) is amended—

3 (A) in clause (i), by inserting “(other than
4 United States industrial users)” after “con-
5 sumers”;

6 (B) by striking “and” at the end of clause
7 (ii);

8 (C) by striking the period at the end of
9 clause (iii) and inserting “; and”; and

10 (D) by adding after clause (iii) the fol-
11 lowing:

12 “(iv) the relative impact on the com-
13 petitiveness of United States industrial
14 users, including, but not limited to, any
15 such impact on employment by and invest-
16 ment in United States industrial users.”.

17 (5) Section 704(g)(2) (19 U.S.C. 1671c(g)(2))
18 is amended by striking “or (G)” and inserting “(G),
19 or (H)”.

20 (6) Section 704(h)(1) (19 U.S.C. 1671c(h)(1))
21 is amended by striking “or (G)” and inserting “(G),
22 or (H)”.

23 (7) Section 705(b)(1) (19 U.S.C. 1671d(b)(1))
24 is amended in the first sentence, by inserting before
25 the period the following: “, and whether the imposi-

1 tion of a countervailing duty on the subject mer-
2 chandise in an amount equal to the net
3 countervailable subsidy would result in greater bene-
4 fits to that United States industry than harm to
5 United States industrial users”.

6 (8) Section 731 (19 U.S.C. 1673) is amended—

7 (A) by striking “and” at the end of para-
8 graph (1);

9 (B) by adding “and” after “that merchan-
10 dise for importation,” at the end of paragraph
11 (2); and

12 (C) by inserting after paragraph (2) the
13 following:

14 “(3) the Commission determines that the impo-
15 sition of an antidumping duty on the subject mer-
16 chandise under this subtitle would result in greater
17 benefits to that United States industry than harm to
18 United States industrial users,”.

19 (9) Section 732(b)(3)(B) (19 U.S.C.
20 1673a(b)(3)(B)) is amended by striking “or (G)”
21 and inserting “(G), or (H)”.

22 (10) Section 733 (19 U.S.C. 1673b) is amend-
23 ed—

24 (A) in subsection (a), in the first sentence,
25 by striking “and that imports of the subject

merchandise are not negligible” and inserting “, that imports of the subject merchandise are not negligible, and that the imposition of an anti-dumping duty on the subject merchandise under this subtitle would result in greater benefits to that United States industry than harm to United States industrial users”; and

(B) in subsection (b)(2), by striking “or (G)” each place it appears and inserting “(G), or (H)”.

(11) Section 734(a)(2)(B) (19 U.S.C. 1673c(a)(2)(B)) is amended—

(A) in clause (i), by inserting “(other than United States industrial users)” after “consumers”;

(B) by striking “and” at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting “; and”; and

(D) by adding after clause (iii) the following:

“(iv) the relative impact on the competitiveness of United States industrial users, including, but not limited to, any

1 such impact on employment by and invest-
2 ment in United States industrial users.”.

3 (12) Section 734(g)(2) (19 U.S.C. 1673c(g)(2))
4 is amended by striking “or (G)” and inserting “(G),
5 or (H)”.

6 (13) Section 734(h)(1) (19 U.S.C. 1673c(h)(1))
7 is amended by striking “or (G)” and inserting “(G),
8 or (H)”.

9 (14) Section 735(b)(1) (19 U.S.C. 1673d(b)(1))
10 is amended in the first sentence, by inserting before
11 the period the following: “, and whether the imposi-
12 tion of an antidumping duty on the subject mer-
13 chandise under this subtitle would result in greater
14 benefits to that United States industry than harm to
15 United States industrial users”.

16 (15) Section 736(c) (19 U.S.C. 1673e(c)) is
17 amended—

18 (A) in paragraph (1)(C), by inserting
19 “United States industrial user,” after “pro-
20 ducer,” the first place it appears; and

21 (B) in paragraph (4)(A), by striking “or
22 (G)” and inserting “(G), or (H)”.

23 (16) Section 751 (19 U.S.C. 1675) is amend-
24 ed—

25 (A) in subsection (b)(2)—

1 (i) in subparagraph (A), by inserting
2 after “material injury,” the following: “and
3 (if that determination is affirmative)
4 whether continuing the countervailing duty
5 order or antidumping duty order or finding
6 would result in greater benefits to the
7 United States industry than harm to
8 United States industrial users,”; and

9 (ii) in subparagraph (C), by inserting
10 after “material injury” the following: “,
11 and (if the latter determination is affirma-
12 tive) whether continuing the suspended in-
13 vestigation would result in greater benefits
14 to the United States industry than harm to
15 United States industrial users”;

16 (B) in subsection (c)—

17 (i) in paragraph (1), by inserting be-
18 fore the period at the end the following: “,
19 and (if that determination is affirmative)
20 whether continuing the countervailing duty
21 order or antidumping duty order, or con-
22 tinuing the suspended investigation, would
23 result in greater benefits to the United
24 States industry than harm to United
25 States industrial users”;

1 (ii) in paragraph (3)(A), by striking
2 “and (G)” and inserting “(G), or (H)”;
3 and

4 (iii) in paragraph (4)—

5 (I) in subparagraph (A), by strik-
6 ing “or (B)” and inserting “, (B), or
7 (H)”; and

8 (II) in subparagraph (B), by in-
9 serting “described in section
10 771(9)(A) or (B)” after “an inter-
11 ested party”; and

12 (C) in subsection (d)(2)(B), by inserting
13 before the period the following: “and that con-
14 tinuation of the order, finding, or investigation,
15 as the case may be, would result in greater ben-
16 efits to the United States industry than harm
17 to United States industrial users”.

18 (17) Section 752(a)(1) (19 U.S.C. 1675a(a)(1))
19 is amended—

20 (A) in the first sentence, by inserting be-
21 fore the period the following: “, and (if that de-
22 termination is affirmative) whether continuation
23 of the order or investigation, as the case may
24 be, would result in greater benefits to the

1 United States industry than harm to United
2 States industrial users”; and

3 (B) in the second sentence, by inserting
4 “and on United States industrial users” after
5 “industry”.

6 (18) Section 753(a)(1) (19 U.S.C. 1675b(a)(1))
7 is amended—

8 (A) by striking “or (G)” and inserting
9 “(G), or (H)”; and

10 (B) by inserting before the period the fol-
11 lowing: “, and (if that determination is affirma-
12 tive) whether imposition of the countervailing
13 duty would result in greater benefits to the
14 United States industry than harm to United
15 States industrial users”.

16 (19) Section 771 (19 U.S.C. 1677(9)) is
17 amended—

18 (A) in paragraph (9)—

19 (i) in subparagraph (F), by striking
20 “and” at the end;

21 (ii) in subparagraph (G), by striking
22 the period at the end and inserting “,
23 and”; and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(H) a United States industrial user, or a
2 trade or business association a majority of
3 whose members are United States industrial
4 users.”; and

5 (B) by inserting after paragraph (9) the
6 following:

7 “(9A) UNITED STATES INDUSTRIAL USER.—
8 The term ‘United States industrial user’ means a
9 manufacturer or producer that uses subject mer-
10 chandise or a domestic like product in the manufac-
11 ture or production of any product in the United
12 States.”.

13 (20) Section 771 (19 U.S.C. 1677) is amended
14 by adding at the end the following new paragraph:

15 “(37) EVALUATION OF BENEFITS TO UNITED
16 STATES INDUSTRY AND HARM TO UNITED STATES
17 INDUSTRIAL USERS.—In considering the potential
18 benefits to the industry in the United States materi-
19 ally injured or threatened with material injury (in
20 this paragraph referred to as the ‘United States in-
21 dustry’), and harm to United States industrial users,
22 from the imposition or continuation of antidumping
23 or countervailing duties under sections 701(a),
24 703(a), 705(b), 731, 733(a), 735(b), 751(b), 751(c),
25 751(d), 752(a), and 753(a), the Commission shall

1 weigh harm to United States industrial users as a
2 whole, taking into account the following factors:

3 “(A) Likely harm to United States indus-
4 trial users from declines in output, sales, mar-
5 ket share, profits, productivity, return on in-
6 vestments, and utilization of capacity in the
7 production of downstream products, compared
8 to likely benefits to the United States industry
9 with respect to those factors.

10 “(B) Likely harm to United States indus-
11 trial users from negative impact on cash flow,
12 inventories, employment, wages, growth, ability
13 to raise capital, and investment, compared to
14 likely benefits to the United States industry
15 with respect to those factors.

16 “(C) Likely negative effects on the existing
17 development and production efforts of United
18 States industrial users, including efforts to de-
19 velop a derivative or more advanced version of
20 their products for manufacture or production in
21 the United States, compared to likely benefits
22 to the United States industry with respect to
23 those factors.

24 “(D) The effect of increased costs or prices
25 for the subject merchandise and domestic like

1 products and reduced availability of the subject
2 merchandise and domestic like products on the
3 competitiveness of United States industrial
4 users located in the market, including the ex-
5 tent to which United States industrial users
6 and their customers would be able to pass on
7 additional costs resulting from antidumping and
8 countervailing duties, compared to likely bene-
9 fits to the United States industry with respect
10 to those factors.

11 “(E) Such other economic factors as the
12 Commission determines are relevant to the po-
13 tential impact of the imposition or continuation
14 of duties, as the case may be, on the United
15 States industry and on United States industrial
16 users.

17 The Commission may determine harm to United
18 States industrial users only if United States indus-
19 trial users have presented credible evidence of such
20 harm.”.

21 (21) Section 777(h) (19 U.S.C. 1677f(h)) is
22 amended—

23 (A) by striking “AND INDUSTRIAL USERS”
24 in the subsection heading; and

1 (B) by striking “for industrial users of the
2 subject merchandise and, if the merchandise”
3 and inserting “, if the subject merchandise or
4 a domestic like product”.

5 (22) Section 782(i)(3)(A) (19 U.S.C.
6 1677m(i)(3)(A)) is amended by striking “or (G)”
7 and inserting “(G), or (H)”.

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